

UNITED STATES DISTRICT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

KEITH JAMAR MOSSON

Plaintiff

-VS-

Case:2:13-cv-13771

Judge: Tarnow, Arthur J.

MJ: Komives, Paul J.

Filed: 09-04-2013 At 02:47 PM

PRIS MOSSON V WAYNE COUNTY PROSECUT
ORS OFFICE, ET AL (EB)

WAYNE COUNTY PROSECUTORS OFFICE; ASSISTANTS:

Ashley Ciaffone, John Casey and all Jane and John

Does; JUDGE: Lynise Bryant-Weekes; ATTORNEYS:

Ronald McDuffie, Richard W. Glanda; THE

DETROIT POLICE DEPARTMENT; Treva Eaton, Michael

Mosley, Robert Lalone, Darryl Davis, Paul

Pesmark, Officers of the Headquarters Surveillance

Unit, any and all Jane and John Does; WAYNE

COUNTY SHERIFF OFFICE; Benny Napoleon,

Captain Roberson, Captain Sabbagh, Commander

Gatti, and any and all Jane and John Does.

WAYNE COUNTY JAIL MEDICAL PROVIDERS;

Nurse Gillery and any and all Jane and John Does.

WAYNE COUNTY JAIL COMMISSARY; and any

And all Jane and John Does, sued individually

and in their official capacities.

Defendants

JURY TRIAL DEMANDED

COMPLAINT

Complaint in Federal Court for an Injunction to prevent a bad faith, a malicious and vindictive, an actual conspiracy, and a miscarriage of justice in laymen terms pro-se.

This is a §1983 cause filed by Keith Jamar Mosson, a pretrial detainee, alleging a violation of his constitutional rights to receive DUE PROCESS of law and equal protection of the law, seeking injunctive relief.

JURISDICTION

1) Jurisdiction of this court is invoked pursuant to 28 U.S.C. §§ 1331, 1343, 2201, 2202, 2241, 2283, 2284, and 42 U.S.C. §§ 1983, 1985, 1986, 1988 and the First, Fourth, Fifth, Sixth, Eighth, Ninth and Fourteenth Amendments to the United States Constitution. This is a Civil suit seeking justice

not punitive to enjoin and redress the deprivation under color of law, of the rights privileges and immunities of the Plaintiff under the United States Constitution. Plaintiff is seeking A CEASE AND DESIST, A temporary restraining order, a preliminary injunction against the defendants, and any other necessary and proper relief, under the All writs Act.

PARTIES

2) Plaintiff is a citizen of the United States and A resident of the State of Michigan for Thirty (30) odd years or more, and currently resides in the Wayne County Jail in Michigan for the last four (4) and a half plus months.

3) Defendants are court officers and agents for the Detroit Police Department and agents and employees of the Wayne County Jail and the State of Michigan who are in collusion to violate the Plaintiff's rights and are flagrantly and patently

violating the laws of the United States of America.

FACTS

1) April 10, 2013, without an arrest warrant shown, still to date, the Plaintiff was road blocked, snatched out of a vehicle, forced to the ground and placed under arrest, being denied his **Fourth Amendment** right to be in his person against unreasonable searches and seizures. **Beck v. Ohio**, 379 U.S. 89, 3 Ohio Misc. 71, 85 S.Ct. 223, 13 L.Ed.2d 142, 31 O.O.2d 80, states when constitutional valid of arrest without warrant was challenged, it was incumbent on prosecution to show with considerably, more specificity than mere fact, that someone told police officers something about defendant, what informer, if any, actually said to police officers making arrest without warrant and why officers thought information was credible.

2) Once in custody, Plaintiff was transported to the **Detroit Police Department** for immediate processing.

3) The Plaintiff in the instant case stated to the Detroit Police officer, that handcuffed him, that he wished to be represented by counsel because no information was given to Plaintiff when asked what was the reason for the arrest.

4) April 12, 2013, without an attorney present, the Plaintiff was video arraigned on the following charges:

- A) 2.C. Robbery, Armed
- B) Extortion
- C) Unlawful Imprisonment
- D) Home Invasion (First Degree)

At the initial appearance, which has been established as a "critical stage" requiring the assistance of counsel, see White v. Maryland, 373 U.S. 59, 83 S.Ct. 1050, 10 L.Ed.2d 193 (1963); Mempa v. Rhay, 389 U.S. 128, 88 S.Ct. 254, 19 L.Ed.2d 336 (1967); and Michigan v. Jackson, 475 U.S. 625, 106 S.Ct. 1404, 89 L.Ed.2d 631. Also the Six Amendment right as stated in Brewer v. Williams, 430 U.S. 387 (1977), the right to counsel "means" that a person is entitled to the help of a

lawyer at the time that judicial proceedings have been initiated against him, whether by formal charges, preliminary hearing, indictment, information or arraignment. Brewer goes on to conclude that once adversary proceedings have begun against a defendant, he has a right to legal representation.

5) The Prosecutors Misconduct And Fraud on the Court are numerous. Fraud on the Court is conduct:

- A) on the part of an officer of the Court;
- B) That is directed to the judicial machinery itself;
- C) That is intentionally false, willfully blind to the truth or is in reckless disregard for the truth;
- D) That is a positive averment or a concealment when one is under duty to disclose;
- E) That deceives the Court.

See Demjanjuk v. Petrovsky, 10 F 3d 338, 348 (6th Cir. 1993). In other words, an officer of the Court must have intentionally or recklessly failed to disclose information to the court that would have the result of deceiving it.

6) In the Plaintiff's case, the State has present to the Courts two (2) different witnesses in which both have made contrary statements, which is not only inconsistent and not compatible with another's claim, but completely conflicting statements which the Prosecution is condoning, and the record will support in the Courtroom, Discovery and the Preliminary Hearing. The Prosecutor did not admit evidence, or correct perjured testimony, so that the magistrate Judge could accurately weigh the credibility of the witnesses or prove the defendant's guilt or innocence.

7) The Prosecution has willfully presented all this to the Courts, knowing that the witnesses had made all these different statements, as being factual and true.

8) A review of Prosecutor Misconduct is "de novo" without deference to the ruling of the court below:

People v. Bahoda, 468 Mich. 261 (1995);

People v. Legone, 205 Mich. App. 77 (1994);

The Prosecutor's tactic also undermined the fundamental fairness, and contributed to a miscarriage of justice. In U.S. V. Young, 470 U.S. 1, 13 (1985) defendant was denied **DUE PROCESS** of law by Prosecutions use of false "evidence".

8) To show Prosecutorial Misconduct:

- A) the Prosecutor presented evidence which was false;
- B) the Prosecutor knew or should have known of the falsity; AND
- C) the evidence was material.

SEE Berger V. United States, 295 U.S. 78, 55 S.Ct. 763, 31 L.Ed. 2d 104 (1972); Cole V. Bell, 161 F.3d 320, 343, (6th Cir. 1999) that the government knowingly used "false" testimony concerning a material fact and the testimony was indisputably false as in the instant case.

SEE Byrd V. Collins, 209 F.3d 468, 517-18 (6th Cir. 2000).

While a prosecutor is clearly authorized to strike hard blows in an earnest and vigorous prosecution, he or she is not at liberty to strike foul ones.

9) In the Plaintiff's case the Prosecution suborn perjured testimony which is shown in the "Memorandum to Support". It will show that one of the witnesses stated he ran to his apartment door and then states to the officer that his residence is with his Father, showing a different address.

10) Memorandum to Support will show the other witness referring to witness one as simply his friend in early statements, and in later testimony changes his reference to roommate. In Napue v. Illinois, 360 U.S. 264, 269, 79 S.Ct. 1173, 3 L.Ed.2d 1217 (1959) it states that the jury estimate of the truthfulness, and reliability of a given witness, may well be determinative of guilt or innocence, and it is upon such subtle factors, as the possible interest of the witness in testifying falsely, that a defendant's life or liberty may depend. As stated by the New York Court of Appeals in a case very similar to Napue, People v. Savvides, 1 N.Y.2d 554, 557, 154 N.Y.S.2d 885, 887, 136 N.E.2d 853, 854-855,

"A lie is a lie, no matter what its subject, and if it is in any way relevant to the case, the district attorney has the responsibility and duty to correct what he knows to be false and elicit the truth."

11) The Police in the Plaintiff's case did not properly secure and collect the evidence at the alleged crime scene, nor obtain all the video or computer drive at the establishments where the alleged crime took place.

12) The Plaintiff does not wish to be so verbose, he does not want to leave anything out.

13) In the Plaintiff case, the witnesses, one which is under the legal age, confessed to the consumption of alcohol, accompanied by the other witness, prior to the incident, were leaving the liquor store which they had purchased more alcohol to consume. These witnesses

were the crux of the authorities belief that a crime had been committed and that the Plaintiff had committed it. There must be reason to conclude that the witnesses were credible, that their information was true, and acquired in a reliable manner. The only evidence on the court that the witnesses are credible sources was the Police/detective's statement. Evidence derived from an informant/witness will not by itself constitute probable cause.

14) In the Plaintiff case, there were many different statements, in Aguilar V. TEXAS, 378 U.S. 108, 84 S.Ct. 1509, 12 L.Ed.2d 723 (1964); and in the Michigan Courts in PEOPLE V. DANIELS, 60 Mich.App. 458, 464, 231 N.W.2d 386 (1975). In this case and others the basis for probable cause was only a witness/informant, not the officer's observation, magistrate should have been given all the facts to make reasonable decision to issue the warrant. Spinelli V. U.S., 393 U.S. 410 S.Ct. 584, 21 L.Ed.2d 637 (1963) Also MCL 764.1A (1)(2), MCR 6.101 (A)

15) Search and seizure of the Plaintiff;
Said matters, Fact, Documents and things were
illegally and improperly presented to the
Judge the presentation of the alleged
evidence to the court to issue the warrant/
information filed ARE in violation of the Fourth,
Fifth, Sixth and Fourteenth Amendments to
the United States Constitution.

16) As stated in Jackson V. Wainwright, 390
F.2d 288 (1968) "The primary duty of a lawyer
engaged in Public prosecution is not to
convict, but to see that justice is done.
The suppression of facts or the secreting
of witnesses capable of establishing the
innocence of the Accused is highly
reprehensible. And a violation of the
DUE PROCESS clause of the Constitution.

17) The Plaintiff's rights have, ARE and
continues to be violated on a daily basis,
just by being committed to the WAYNE
County Jail exempts the court officers,
such as the Prosecutors, from Absolute immunity
ordering prisoners confinement under unlawful

conditions see Price V. Moody, 677 F.2d. 676, 677-78 (8th Cir. 1981)).

18) The Wayne County Jail is a obvious violation/deprivation which has been Addressed many times in the courts and in the news, television on a regular basis. It should be AWARE to ALL Agents, employees, visitors, staff at the Wayne County Jail that it is not fit to house humans period.

19) The policy at the Wayne County Jail violates the Plaintiff and other inmates by subjecting them to humiliation, and degrading them on a daily basis by being exposed to the opposite sex officers while in the showers, see Mills V. City of Barcheville, 389 F.3d 568, 579 (6th Cir. 2004) Also in the (11th Cir. 1993); and also the Michigan Supreme Court in Bushing V. Wayne County, 436 Mich. 247, 462 N.W. 2d 23, 32 (Mich. 1990) stated that exposure of genitals to persons of opposite sex is a deprivation. The Courts have constantly agreed in every circuit to this deprivation.

20) In respect to the conditions of confinement, the Supreme Court said in BELL V. Wolfish, 441 U.S. 520, 559, 99 S.Ct. 1861 (1979) that crowding and other living conditions constitutes punishment of detainees if they inflict genuine privation and hardship over an extended period of time. Court applying BELL have intervened in many cases of inhumane jail conditions.

21) The Plaintiff has been incarcerated in the WAYNE County Jail for four and a half-plus ($4\frac{1}{2}+$) months, on two (2) floors and now in the Third (3rd) Unit, Ward 308, which is just like the other wards.

22) Neither Guard nor Trustee's clean the day area, the units or unit 308.

23) Guards bring a mildew mop and bucket every morning to our unit with no bleach, no gloves, and no spray bottles, but maybe once a week, and then they force Plaintiff and other Pre-trial Detainees to mop and clean day area.

24) The whole unit 308 smells like feces, urine, dirty clothes and sweat.

25) Unit 308 cells are designed with a $1\frac{1}{2}$ inch gap between the wall and the side of the sink/toilet units, and when Plaintiff arrived, urine and filth had accumulated over the years, the jail is over one hundred (100) years old.

26) Since the Plaintiff has been here, that side of the toilet has never been cleaned nor have the guards provided anything for us to reach in between the space to clean it.

27) Plaintiff is forced to live on units in the County Jail that has neither open windows nor proper ventilation (24) hours a day.

28) Plaintiff has been forced to take showers with black mold on the shower walls in the old and new jail.

29) Guards often bring many unknown inmates

to unit 308, from other units, to use the shower while some of them leave blood stains and feces on the shower walls and floor.

30) County guards come to units, maybe once a week, with a bucket and scrub brush for shower, no gloves, no mask, no protective clothing or bleach.

31) Plaintiff is forced to be housed with inmates that have diseases such as MRSA, Hepatitis C, HIV, etc.....

32) Wayne County has a policy that allows mentally ill inmates to refuse to take their medication when they feel like it.

33) Plaintiff has been a witness to inmates with not only bi-polar disorder, but also paranoid schizophrenia go weeks without receiving their medication. This keeps them from sleeping, making them delusional, which separates them from reality and they become not only suicidal, but homicidal as well.

34) Wayne County Jail and the Sheriff's Department has an improper Grievance procedure policy where they do not respond to all grievances, and when they decide to respond, they are very vague and dismissive.

35) During the month of Ramadhan, Plaintiff wrote numerous grievance's in regards to the treatment he received, with limited response.

36) Plaintiff did not receive Halal meal before sun-rise majority of the time. Makin V. Colorado Dept. of Correction, 183 F.3d 1205, 1211-14 (10th Cir. 1999) holding failure to adjust meal schedule for Ramadhan violated the First Amendment.

37) Plaintiff takes Ultram pain medication twice a day, and was denied his morning dose through the month of Ramadhan, due to the inability to consume fluids at that hour of the day.

38) Wayne County officers would lie, and/

or sometimes rudely ignore Plaintiff when he inquired about time for prayer or breaking fast. Omar V. Castecline, 238 F. Supp. 2d 775, 781-82 (W.D.La. 2003) held that alleged refusal to tell a Muslim prisoner the time of day so he could follow his prayer schedule is a factual issue under the First Amendment.

39) The Plaintiff is a pretrial detainee facing an infamous crime which carries a life sentence, his access to the phone, and his access to the law library and stamps are not only his right, but essential to his defense.

40) The Wayne County Commissary in which you buy your phone time and stamps are subject at any time, if you merely question the price of an item, to stop you from acquiring the phone time, or stamps, to maintain contact with family and attorney which is essential.

41) The Supreme court held in Bounds V.

Smith, 430 U.S. 817, 828, 97 S.Ct. 1491 (1977) that prison officials must "Assist" inmates in the preparation and filing of meaningful legal papers by providing prisoners with adequate law libraries or adequate assistance from persons trained in the law.

42) The Plaintiff while (still to date) housed at the Wayne County Jail, there is not a designated day to go to the law library. Plaintiff is sometimes forced to go without the law library for three (3) weeks at a time.

43) The Plaintiff would have filed this complaint at an earlier time if he had regular access to the law library, so that he could obtain the information and the U.S. District Courts, which had injured him tremendously.

44) The violations stated above, ventilation, conditions of confinement and being forced to clean without proper protective gear is not only an extreme risk, cruel and

unusual punishment with malicious and sadistic intent, neglect, and deliberate indifference towards Plaintiff's health and right to be free from involuntary servitude as well as other rights guaranteed by the Fifth, Eighth, Thirteenth and Fourteenth Amendments to the Constitution of the United States.

45) The Plaintiff wishes to apologize to the Courts for his lack of knowledge of the law and does not wish to be too verbose, he could go on and on about the deprivations but is seeking the relief as follows:

46) The Plaintiff states, showing of a conspiracy to interfere with civil rights in violation of statute, is required, either directly or indirectly under separate statute providing cause of action against anyone who has knowledge that such conspiracy is about to be committed and having power to prevent or aid in preventing of such conspiracy, neglects

or refuses so to do, statute does not require that defendants themselves participated in such conspiracy or shared in discriminatory animus with members of conspiracy 42 U.S.C.A. §§ 1985, 1986.
See Park V. City of Atlanta, 120 F.3d. 1157, (1997)

Relief

WHEREFORE, the Plaintiff prays that this Honorable Court:

- A) Assume jurisdiction of this action and set it down promptly for a hearing.
- B) Pending a hearing on this action, grant a temporary restraining order, restraining defendants, his successors in office, their agents and employees, and all other persons acting in concert with them from prosecuting the Plaintiff on the warrant or information pending against him.

C) Enter preliminary and permanent injunctions, pursuant to Rule 65 of the Federal Rules of Civil Procedure, enjoining defendants their successors in office, Agents and employees, and all other persons acting in concert with them from prosecuting Plaintiff on the information and warrant pending against Plaintiff.

D) Enter a final judgement declaring that defendants prosecution and the Housing of him violated his rights under the First, Fourth, Fifth, Sixth, Eighth and Fourteenth Amendments to the United States Constitution.

E) Grant any further, different or Alternative relief which the Plaintiff maybe entitled in the premises

F) The Plaintiff wishes the Honorable Court to grant a(n) order for A CEASE AND DESIST in the interest of Justice, and to stop A

miscarriage of Justice.

G) The Plaintiff wishes the Honorable Court grant a order stating that he And David Glenn Fowler, on Ward 308, in the Wayne County Jail, I.D. #2012004775, stay together so we can help each other in our CAUSE And Action.

Pursuant to 28 U.S.C. § 1746

I declare under penalty of perjury that the foregoing is true and correct.
On this day of 2013.

Signed



#2013008241

Keith Jamar Mosson

Division 2 - Ward 308

525 Clinton St.

Detroit, MI 48226

525 Clinton St.

Detroit, MI. 48226

Freedom Liberty Equality
FOREVER FOREVER FOREVER

Pris

United States District Court
For the Eastern District of Michigan
Office of the Clerk
231 West Lafayette Blvd - Room 564
Detroit, MI. 48226

Legal mail

CIVIL COVER SHEET FOR PRISONER CASES

Case No. 13-13771 **Judge:** Arthur J. Tarnow **Magistrate Judge:** Paul J. Komives

Name of 1st Listed Plaintiff/Petitioner:

KEITH MOSSON

Name of 1st Listed Defendant/Respondent:

WAYNE COUNTY PROSECUTORS OFFICE, ET AL

Inmate Number: 2013008241**Additional Information:****Plaintiff/Petitioner's Attorney and Address Information:****Correctional Facility:**

Wayne County Jail - Division 1

570 Clinton Street

Detroit, MI 48226

WAYNE COUNTY

BASIS OF JURISDICTION

- ☐ 2 U.S. Government Defendant
☒ 3 Federal Question

ORIGIN

- ☒ 1 Original Proceeding
☐ 5 Transferred from Another District Court
☐ Other:

NATURE OF SUIT

- ☐ 530 Habeas Corpus
☐ 540 Mandamus
☒ 550 Civil Rights
☐ 555 Prison Conditions

FEE STATUS

- ☒ IFP *In Forma Pauperis*
☐ PD Paid

PURSUANT TO LOCAL RULE 83.11**1. Is this a case that has been previously dismissed?**

- ☐ Yes ☒ No

➤ If yes, give the following information:

Court: _____

Case No: _____

Judge: _____

2. Other than stated above, are there any pending or previously discontinued or dismissed companion cases in this or any other court, including state court? (Companion cases are matters in which it appears substantially similar evidence will be offered or the same or related parties are present and the cases arise out of the same transaction or occurrence.)

- ☐ Yes ☒ No

➤ If yes, give the following information:

Court: _____

Case No: _____

Judge: _____